

12

that is parallel to the web of the first I-beam;

*A<sub>2</sub>*  
*(concl.)* the first I-beam pivoting with respect to the second I-beam between a lengthened position and a shortened position; and

the first and second I-beams being maintained in the lengthened position by a shearable member extending between at least one of the extensions of the first I-beam and at least one of the extensions of the second I-beam.

---

REMARKS

This application has been carefully reviewed in response to the election/restriction requirement dated September 24, 1999.

ELECTION/RESTRICTION

The Examiner stated that this application contains claims directed to the following patentability distinct species of the claimed invention: Group I, (Figs. 1-3); Group II (Figs. 4-6); Group III (Figs. 7-9); Group IV (Figs. 10-13), Group V (Figs. 14A-14B) or Group VI (Figs. 15A-16).

Applicant elects with traverse Group II (FIGURES 4-6). Applicant respectfully submits that the following claims read on Group II (FIGURES 4-6).

GROUP II

Claims 5-9, 24-26, 28 and 30.

Applicant also requests consideration of Claims 10-12 which are dependent from Claim 9.

Applicant respectfully traverses the Examiner's statement that this application does not contain a generic claim. For example, Claim 28 calls for various features, including a support post, an elongated body having a first portion and a second portion and a frangible connection for coupling the first portion with the second portion. Applicant respectfully submits that the various embodiments of the invention, which are shown in FIGURES 1-16 contain the various

features as defined in Claim 28. The written description on page 16, lines 7-20 describes in more details the frangible connection associated with the breakaway support post shown in FIGURES 1, 2 and 3. Other references to frangible connections may be found in the detailed written description of the invention. Claim 28 is generic with regard to FIGURES 1-16.

Applicant further notes that Claim 5 is generic with respect to the embodiments of the invention as shown in FIGURES 10-16.

Applicant notes that Claim 9 calls for various features of the present invention including a breakaway support post, and elongated body, an upper portion, a lower portion, means for attaching the guardrail adjacent to the upper portion, and means for coupling the first portion of the elongated body with the second portion of the elongated body. Claim 9 is generic with respect to embodiments of the invention as shown in FIGURES 10-16.

Applicant requests withdrawal of the election/restriction requirement and examination of Claims 1-31 and FIGURES 1-16.

New Claims 32-35 have been added by this amendment. New Claims 32-35 correspond to the embodiments shown in FIGURES 4-6 and 15A-16.

### CONCLUSION

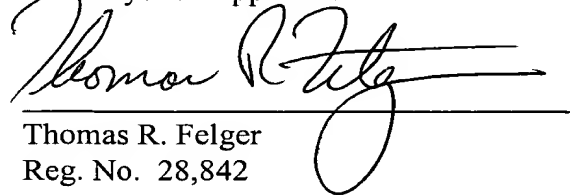
Applicant has now made an earnest effort to place this case in condition for examination and allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of the election/restriction requirement and allowance of Claims 1-31, as amended and new Claims 32-35.

A fee of \$312.00 is due for new Claims 32-35. A check for \$422.00 is enclosed (\$312 for extra claims plus \$110 for one month extension fee). The Commissioner is hereby authorized to charge any additional fees (including any extension fees) or credit any overpayment to Deposit Account No. 02-0384 of Baker & Botts, L.L.P.

A

If there are matters which can be discussed by telephone to further the prosecution of this application, Applicant respectfully requests that the Examiner call their attorney at the number listed below.

Respectfully submitted,  
BAKER & BOTTS, L.L.P.  
Attorneys for Applicant

  
Thomas R. Felger  
Reg. No. 28,842

2001 Ross Avenue  
Dallas, Texas 75201-2980  
(512) 322-2559  
Date: 9 NOV 99